

STATE OF MICHIGAN
IN THE SUPREME COURT

JEFFREY SOTELO, SUSAN SOTELO,
WALTER J. VANDER WALL, individually and
as Trustee, and PHYLLIS A. VANDER WALL,
Individually and as Trustee,

Plaintiffs/Appellees,

v

TOWNSHIP OF GRANT,

Defendant/Appellant.

Supreme Court No. 123430

Court of Appeals No. 238690

Lower Court No. 00-018133-AW

**AMICUS CURIAE'S SUPPLEMENTAL BRIEF IN SUPPORT OF
APPLICATION FOR LEAVE TO APPEAL**

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Dated: February 26, 2004

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CORBIN R. DAVIS
CLERK
MICHIGAN SUPREME COURT

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QUESTIONS PRESENTED FOR REVIEW

- I. Whether the Court of Appeals improperly interpreted the Michigan Land Division Act , MCL 560.101 *et seq.* when it held that “parent parcel” boundaries are not necessarily fixed as of March 31, 1997 (the effective date of an amendment to the Land Division Act) and can change over time due to land transfers between parent parcels.**
- II. Whether the Court of Appeals improperly applied a long-standing legal principle governing interpretation of statutes when it held that the Michigan Land Division Act is in derogation of the common law right to freely alienate real property, and as such, must be strictly and narrowly construed.**

**STATEMENT OF JUDGMENT OR ORDER APPEALED FROM
AND RELIEF SOUGHT**

On February 21, 2003, the Michigan Court of Appeals issued its opinion in this case for publication, wherein it reversed the decision of the Trial Court and remanded the case to the Trial Court for entry of an order directing Grant Township to approve the division of the properties as requested by Plaintiffs/Appellees.

STATEMENT OF PROCEEDINGS AND FACTS

On March 31, 1997, Filut owned a parcel of land consisting of 7.63 acres. Filut's neighbors to the north, the Sotelos, owned a parcel consisting of 2.35 acres. Both parcels were lawfully in existence on March 31, 1997, and therefore were considered "parent parcels" by Grant Township under section 108 of the Land Division Act (LDA), MCL 560.108.

As of March 31, 1997, both the Sotelos and Filut could lawfully divide their parent parcels into smaller parcels, subject to limitations imposed by the LDA and applicable local ordinances. The Sotelos' parent parcel was entitled to be divided into four parcels under the LDA, but because a Grant Township ordinance requires a minimum parcel size of 1 acre, they were limited to two parcels. The Sotelos did not divide their parent parcel, and it remains as it existed on March 31, 1997.

Filut was entitled under the LDA and local ordinance to four parcels of one acre or greater, and he created those parcels on July 15, 1999. (Attachment A.) In addition, Filut also created and transferred a fifth parcel to the Sotelos on July 15, 1999. (Attachment A.)

In the view of Grant Township and the Michigan Department of Labor and Economic Growth (MDLEG), the "parent parcels" were fixed by law on March 31, 1997, and were not altered by the conveyances of July 15, 1999. The Sotelos' "parent parcel" was not enlarged by the parcel conveyed to them by Filut, nor was Filut's "parent parcel" reduced by the parcels he created and conveyed. Any further divisions of the parcels continued to be controlled by how the property appeared on March 31, 1997.

What happened next is the crux of the dispute. On August 10, 1999, the Sotelos further divided the parcel that Filut had conveyed to them by creating three new parcels. (Attachment B.) It is the view of both Grant Township and the MDLEG that all of the lawful divisions of the Filut "parent parcel" had already occurred. The three new Soletos parcels, whose origins are

exclusively from the Filut parent parcel, were unlawfully made since all divisions had been previously exhausted by Filut. The last three divisions of the land derived from the Filut "parent parcel" by the Soletos should not have occurred.

ARGUMENT

- I. The boundaries of "parent parcels" and "parent tracts" are fixed by law to provide a baseline by which to determine the number of divisions that may occur without triggering the requirement to make a plat.**

A. Standard of Review

Amicus Curiae concurs with the township's position that this matter involves a question of law and that review on appeal is *de novo*.

- B. While "parent parcels" and "parent tracts" may be divided, the boundaries for determining the number of divisions that can be made of those parcels or tracts that are exempt from the platting requirements were fixed on March 31, 1997, the effective date of an amendment to the Land Division Act and do not change as the Court of Appeals erroneously concluded.**

The Land Division Act (LDA), 1967 PA 288, MCL 560.101 *et seq*, establishes a baseline for determining the number of divisions of land that may occur without having to subdivide the land through the platting process. The baseline for a parent parcel or parent tract of land is the property boundaries as they existed on the effective date of the amendment of the Subdivision Control Act of 1967 by 1996 PA 591, which date is March 31, 1997. Section 108 [MCL 560.108] exempts a certain number of divisions based on the size of the "parent parcel" or "parent tract." "Parent parcel", "parent tract" and the baseline are set forth at section 102(i) [MCL 560.102(i)]:

"Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.

Likewise, "parcel" and "tract" are defined at sections 102(g) and (h):

(g) "Parcel" means a continuous area or acreage of land which can be described as provided for in this act.

(h) "Tract" means 2 or more parcels that share a common property line and are under the same ownership.

Section 102(d) defines division as the splitting or partitioning of a parcel or tract in a manner that satisfies both sections 108 and 109 [MCL 560.109]:

"Division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of sections 108 and 109. . . .

Section 108(2) carefully differentiates between "parent parcels" and "parent tracts" from "parcels," and sets a maximum number of divisions that may be made without requiring a plat to be made.

(2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

(b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.

(c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.

Additionally, section 108(5) clarifies that a parcel or tract created by an exempt split or division of a parent parcel or parent tract is not a new parent parcel or new parent tract. Section 109 recognizes that local ordinances may operate in a manner to reduce the number of divisions otherwise allowed by section 108.

Importantly, section 109(2) buttresses the notion that the number of divisions allowed was fixed as of a date certain. Section 109(2) provides:

(2) The right to make divisions exempt from the platting requirements of this act under section 108 and this section can be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract.

As a consequence of section 108, to determine how many divisions may be made of a parent parcel or parent tract, or how many divisions remain after a division has occurred, one must always reference how the parent parcel or parent tract appeared on March 31, 1997, the effective date of the amendatory act. All land in Michigan for division purposes was, in essence, frozen as of that date for purposes of determining the number of divisions, at least for the ten years following March 31, 1997. See MCL 560.108(5). Land could be divided and conveyed, but the land divisions would neither increase nor reduce the size of the baseline parent parcel or parent tract, and therefore neither increase nor decrease the total number of divisions exempt from the platting requirements of the LDA.

In this case, as of March 31, 1997, the 2.35-acre parent parcel of land held by the Sotelos could only be lawfully divided into two parcels, due to the township's ordinance requiring a one-acre minimum parcel size.

Filut was entitled to a maximum of four divisions of his 7.63-acre parent parcel, which he made. A fifth parcel was created by Filut, which the township apparently did not take issue with, but the Michigan Department of Labor and Economic Growth (MDLEG) would have

questioned.¹ One of the Filut parcels was conveyed to the Sotelos, which was subsequently unlawfully divided into three parcels.

Here, Filut could have given up one or more divisions to the Sotelos by a transfer, thereby increasing the number of divisions available to the Sotelos, but decreasing the number of divisions available to Filut. In fact, the deed from Filut to the Sotelos precluded such divisions by stating that no divisions were being conveyed. (Attachment A.) The Court of Appeals decision renders the section of the LDA allowing transfers of divisions surplusage, as its interpretation of the LDA allows the number of divisions to change based on the amount of acreage conveyed to an adjoining land owner, rather than with how the parent parcel or the parent tract from which the parcel was conveyed appeared on March 31, 1997, and whether any divisions were available and transferred from the owner of the parent parcel to the owner of the adjoining land.

The Court of Appeals misunderstanding is further demonstrated in footnote 2, p. 3 of the slip opinion, where it recognizes that the enlarged Sotelos' property is not a parent parcel because it was not in existence on March 31, 1997, but then goes on to hold that the Sotelos were entitled to create four parcels from that land due to the additional acreage acquired from Filut. However, authority for the creation of the four parcels is section 108(2)(a):

¹ Section 102(d) defines "division" and states that a division "does not include a property transfer between 2 or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the act" and applicable local ordinances. This provision was intended to allow transfer of small parcels of land, such as when railroad corridors are segmented and conveyed, or where neighbors convey strips of land to resolve problems or disputes. The land is "added" to the adjacent parcel. Here, the land conveyed to the Sotelos was not of that character. It was not "added" to Sotelos's parent parcel for their use, but simply increased the contiguous land owned by them. It was intended an independent building site. Thus, it falls within the definition of a "division," in the view of MDLEG.

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

The Court disregards or overlooks that four parcels may only be created from a parent parcel, which the Court acknowledges that the enlarged Sotelos' property is not. In fact, the Court never mentions what it views as the parent parcel.

The Michigan Department of Labor and Economic Growth agrees with the argument set forth by Grant Township in its application for leave to appeal and brief in support regarding the legislative intent to base divisions on the acreage of a parent parcel or parent tract as of March 31, 1997.

C. The LDA is not in derogation of the common law right to freely alienate real property and should not be strictly and narrowly construed.

Without analysis, the Court of Appeals concludes that the LDA is a restraint on the alienation of real property and, because of this, the statute is in derogation of a common law right and must be strictly construed. No authority is cited for the "common law right to freely alienate real property." Slip Opinion, p. 3.

From a factual perspective, the LDA does not prohibit the alienation of property, but rather regulates how land is divided. The Sotelos were not being prevented from conveying their land, only from dividing it in the manner they did without complying with the platting requirements of the LDA. The LDA is no more of a restraint on the conveyance of land than any other regulatory measure governing the use and development of land, such as zoning ordinances and environmental statutes. The Court of Appeals erred in concluding that the LDA is in derogation of the common law and must be strictly and narrowly construed. In fact, this Court held in *Arrowhead Development Co v Livingston Co Rd Comm*, 413 Mich 505, 516; 322 NW2d 702 (1982) that provisions of the LDA must be read in context with the entire act, history and common sense:

Section 183 does not stand alone. It exists and must be read in context with the entire act, and the words and phrases used there must be assigned such meanings as are in harmony with the whole of the statute, construed in the light of history and common sense.

RELIEF REQUESTED

WHEREFORE, for the reasons set forth in its application and brief, the Michigan Department of Labor and Economic Growth requests this Court to grant the Township of Grant's application for leave to appeal, or, alternatively, peremptorily reverse the decision of the Court of Appeals, and affirm the Trial Court's opinion under MCR 7.302(G)(1).

Respectfully submitted,

Michael A. Cox
Attorney General

Thomas L. Casey (P24215)
Solicitor General
Counsel of Record

A. Michael Leffler (P24254)
Assistant in Charge



James E. Riley (P23992)
Assistant Attorney General
Attorneys for Michigan Department of
Labor and Economic Growth
Department of Attorney General
Environment, Natural Resources and
Agriculture Division
Constitution Hall, 5th Floor South
525 West Allegan
Lansing, MI 48913
(517) 373-7540

Dated: February 26, 2004

S:\open plats sotelo amicus supplemental brief support appl lv

A

White Cloud, Mich. July 15 1999: certify that there are no tax liens or titles held by the State or any individual against the within description, and all taxes on same are paid for five years previous to the date of this instrument as appears by the records in my office. This does not cover taxes in process of collection by Townships, Cities, or Villages.
Alan G. Harrison County Treasurer

RECORDED
'99 JUL 15 PM 1 56

[Signature]

62-23-24-3(1) 016 PTKM

WARRANTY DEED
STATUTORY FORM FOR INDIVIDUALS

KNOW ALL MEN BY THESE PRESENTS: That Robert L. Filut, a single man,
whose street number and postoffice address is 750 Crosby NW, Grand Rapids, MI 49504,
Convey s and Warrant s to Phyllis A. Vander Wall Trust UTA dated 3/26/97
whose street number and postoffice address is 3735 East 16th Street, Grant, MI 49327
the following described premises situated in the Township of Grant County of Newaygo
and State of Michigan, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

for the sum of Two Thousand One Hundred and 00/100ths (\$2100.00) Dollars
subject to easements and restrictions of record

Dated this 15th day of July, 1999

Signed and sealed in presence of
[Signature]
F. Wain Harrison

Herbert J. Ranta
STATE OF MICHIGAN

COUNTY OF Kent ss.

Signed and Sealed:
[Signature]
Robert L. Filut (L.S.)

(L.S.)

(L.S.)

(L.S.)

The foregoing instrument was acknowledged before me this 15th day of July, 1999
by (2) Robert L. Filut

HERBERT J. RANTA
Notary Public, Kent County, MI
My Commission Expires Feb 21, 2000

My Commission expires 8/27/2000

(3) *[Signature]*
Herbert J. Ranta
Kent Notary public,
County, Michigan

*Note: (1) Insert date (2) Insert name of person(s) acknowledged (grantor) (3) signature of person taking acknowledgment

County Treasurer's Certificate

City Treasurer's Certificate

Please note the following
1. Marital status of each male grantor must be indicated.
2. The name of each person who signs this instrument shall be legibly printed, typewriting or stamped upon such instrument immediately beneath the signature of such person.

3. If the notarial act is performed outside the State of Michigan, the acknowledgment must show the rank or title and serial number, if any, of the person taking the acknowledgment. The official seal of the person performing the notarial act outside the State of Michigan should be affixed to the deed.

Drafted by: Herb Ranta
. 1052 Bridge NW
Business Address:
Grand Rapids, MI 49504

After recording return to:
Walt Vander Wall
3735 East 16th Street
Grant, MI 49327

LEGAL DESCRIPTION-FILUT TO VANDER WALL TRUST

THE NORTH 144 FEET OF THE SOUTH 432 FEET OF THE FOLLOWING DESCRIPTION: PART of the East 1/4 of the North 1/2 of the SW 1/4 of S24, T11N, R12W, Grant Township, Newaygo County, Michigan described as beginning at the South 1/16 corner of the North and South 1/4 line; said corner being N00°11'12"W 1318.53 feet from the S1/4 corner of said Section; thence S89°58'55"W along the South 1/8 line 330.00 feet; thence N00°11'12"W parallel to the North and South 1/4 line 1006.27 feet; thence N89°13'13"E 330.00 feet to the North and South 1/4 line; thence S00°11'12"E along the North and South 1/4 line 1010.66 feet to the point of beginning.

This property may be located within the vicinity of farmland or farm operations. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make zero divisions under Section 108 of the Land Division Act, Act 288 of Public Acts of 1967.

Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

NEWAYGO
10 JUL 99
5



99 JUL 15 PM 1 56

White Cloud, Mich. July 15 1999 I certify that there are no tax liens or titles held by the State or any individual against the within description, and all taxes on same are paid for five years previous to the date of this instrument as appears by the records in my office. This does not cover taxes in process of collection by townships, cities, or villages.
Alice E. Nichols, County Treasurer

[Signature]

102-23-24-30-016 ATM

WARRANTY DEED STATUTORY FORM FOR INDIVIDUALS

KNOW ALL MEN BY THESE PRESENTS: That Robert L. Filut, a single man,
whose street number and postoffice address is 750 Crosby NW, Grand Rapids, MI 49504,
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for the sum of Two Thousand One Hundred and 00/100s (\$2100.00) Dollars
subject to easements and restrictions of record

Dated this 15th day of July, 1999

Signed and sealed in presence of

[Signature]
F. Wain Harrison

[Signature]
Herbert J. Ranta
STATE OF MICHIGAN

COUNTY OF Kent ss.

Signed and Sealed:

[Signature] (L.S.)
Robert L. Filut

(L.S.)

(L.S.)

(L.S.)

The foregoing instrument was acknowledged before me this 15th day of July, 1999
by (2) Robert L. Filut

(3) *[Signature]*
Herbert J. Ranta
Kent Notary public,
County, Michigan

My Commission expires 8/27/2000

*Note: (1) Insert date (2) Insert name of person(s) acknowledged (grantor) (3) signature of person taking acknowledgment

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City Treasurer's Certificate

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. 1052 Bridge NW
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3735 East 16th Street
Grant, MI 49327

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This property may be located within the vicinity of farmland or farm operations. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make zero divisions under Section 108 of the Land Division Act, Act 288 of Public Acts of 1967.

Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

NEWAYGO
10 JUL 99
5



10.75-21*
#100000196

99 JUL 15 PM 1 56

Note: Grantor, Recipient, and County Treasurer certify that there are no tax liens or taxes held by the State or any individual against the within description, and all taxes on same are paid or five years previous to the date of this instrument as appears by the records in my office. This does not cover taxes in process of collection by townships, cities, or villages.

Alan G. Jackson
County Treasurer

62-23-24-30-016 PTKM

WARRANTY DEED STATUTORY FORM FOR INDIVIDUALS

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and State of Michigan, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

for the sum of Two Thousand One Hundred and 00/100ths (\$2100.00) Dollars
subject to easements and restrictions of record

Dated this 15th day of July, 1999

Signed and sealed in presence of
F. Wayne Harrison
F. Wayne Harrison
Herbert G. Ranta
STATE OF MICHIGAN
COUNTY OF Kent ss.

Signed and Sealed:
Robert L. Filut (L.S.)
Robert L. Filut (L.S.)
(L.S.)
(L.S.)

The foregoing instrument was acknowledged before me this 15th day of July, 1999
by (2) Robert L. Filut

My Commission Expires Feb 27, 2003

My Commission expires 8/27/2000
Herbert J. Ranta
Kent Notary public,
County, Michigan

*Note: (1) Insert date (2) Insert name of person(s) acknowledged (grantor) (3) signature of person taking acknowledgment

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City Treasurer's Certificate

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Marital status of each male
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stamped upon such instrument
immediately beneath the
signature of such person.

3. If the notarial act is performed
outside the State of Michigan, the
acknowledgment must show the
rank or title and serial number, if
any, of the person taking the
acknowledgment. The official
seal of the person performing the
notarial act outside the State of
Michigan should be affixed to the
deed.

Drafted by: Herb Ranta
. 1052 Bridge NW
Business Address:
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After recording return to:
Walt Vander Wall
3735 East 16th Street
Grant, MI 49327

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This property may be located within the vicinity of farmland or farm operations. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

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Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

the Clerk, Michigan, July 15, 1999, certify that there
is no tax liens or titles held by the State or any institutions;
that the within description, and all taxes on same are paid
five years previous to the date of this instrument as
shown by the records in my office. This does not cover taxes
imposed or collection by townships, cities, or villages.
Lelan G. Jackson, Jr. County Treasurer

99 JUL 15 PM 1 56

Robert L. Filut

16223-74301016 FT KM

**WARRANTY DEED
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whose street number and postoffice address is 750 Crosby NW, Grand Rapids, MI 49504,
Convey s and Warrant s to Walter J. Vander Wall Trust UTA dated _____
whose street number and postoffice address is 3735 East 16th Street, Grant, MI 49327
the following described premises situated in the Township of Grant County of Newaygo
and State of Michigan, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

for the sum of Two Thousand One Hundred and 00/100ths (\$2100.00) Dollars
subject to easements and restrictions of record

Dated this 15th day of July, 1999

Signed and sealed in presence of

F. Wain Harrison
F. Wain Harrison

Herbert J. Ranta

STATE OF MICHIGAN

COUNTY OF Kent

ss.

Signed and Sealed:

Robert L. Filut (L.S.)
Robert L. Filut

(L.S.)

(L.S.)

(L.S.)

The foregoing instrument was acknowledged before me this * (1) 15th day of July, 1999
by * (2) Robert L. Filut

HERBERT J. RANTA

Notary Public, Kent County, MI

My Commission Expires Aug. 27, 2000

*(3)

Herbert J. Ranta
Herbert J. Ranta

Notary public,
Kent County, Michigan

My Commission expires 8/27/2000

*Note: (1)insert date (2)insert name of person(s) acknowledged (grantor) (3)signature of person taking
acknowledgment

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THE NORTH 144 FEET OF THE SOUTH 576 FEET OF THE FOLLOWING DESCRIPTION: PART of the East 1/4 of the North 1/2 of the SW 1/4 of S24, T11N, R12W, Grant Township, Newaygo County, Michigan described as beginning at the South 1/16 corner of the North and South 1/4 line; said corner being N00°11'12"W 1318.53 feet from the S1/4 corner of said Section; thence S89°58'55"W along the South 1/8 line 330.00 feet; thence N00°11'12"W parallel to the North and South 1/4 line 1006.27 feet; thence N89°13'13"E 330.00 feet to the North and South 1/4 line; thence S00°11'12"E along the North and South 1/4 line 1010.66 feet to the point of beginning.

This property may be located within the vicinity of farmland or farm operations. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make zero divisions under Section 108 of the Land Division Act, Act 288 of Public Acts of 1967.

Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

State of Mich. July 15 1999: certifying that there are no tax liens or titles held by the State or any individual against the within description, and all taxes or fees are paid for five years previous to the date of this instrument as appears by the records in my office. This does not cover taxes in process of collection of townships, cities or villages.
Alan C. Jackson Jr. County Treasurer

93 JUL 15 PM 1 40

[Signature]

167-23-24-300-016 PTKM

**WARRANTY DEED
STATUTORY FORM FOR INDIVIDUALS**

KNOW ALL MEN BY THESE PRESENTS: That Robert L. Filut, a single man,
whose street number and postoffice address is 750 Crosby NW, Grand Rapids, MI 49504
Conveys and Warrants to Jeffrey Sotelo and wife, Susan Sotelo,
whose street number and postoffice address is 12415 Peach, Grant, MI 49327
the following described premises situated in the Township of Grant County of Newaygo
and State of Michigan, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

for the sum of Six Thousand Six Hundred and 00/100ths (\$6600.00) Dollars
subject to easements and restrictions of record

Dated this 15th day of July, 1999

Signed and sealed in presence of
[Signature]
F. Wain Harrison

Herbert J. Ranta
STATE OF MICHIGAN

COUNTY OF Kent ss.

Signed and Sealed:

[Signature] (L.S.)
Robert L. Filut

(L.S.)

(L.S.)

(L.S.)

The foregoing instrument was acknowledged before me this 15th day of July, 1999
by (1) Robert L. Filut

by (2) *[Signature]*
My Commission Expires Feb 27, 2000

(3) *[Signature]*
Herbert J. Ranta
Kent, Michigan

My Commission expires 7/27/2000

*Note: (1)insert date (2)insert name of person(s) acknowledged (grantor) (3)signature of person taking acknowledgment

County Treasurer's Certificate

City Treasurer's Certificate

Please note the following
1. Marital status of each male grantor must be indicated.
2. The name of each person who signs this instrument shall be legibly printed, typewriting or stamped upon such instrument immediately beneath the signature of such person.

3. If the notarial act is performed outside the State of Michigan, the acknowledgment must show the rank or title and serial number, if any, of the person taking the acknowledgment. The official seal of the person performing the notarial act outside the State of Michigan should be affixed to the deed.

Drafted by: Herb Ranta
Business Address: 1052 Bridge NW
Grand Rapids, MI 49504
After recording return to:
Walt Vander Wall
3735 East 16th Street
Grant, MI 49327

ALL PROPERTY NORTH OF THE SOUTH 576 FEET OF THE FOLLOWING DESCRIPTION: PART of the East 1/4 of the North 1/2 of the SW 1/4 of S24, T11N, R12W, Grant Township, Newaygo County, Michigan described as beginning at the South 1/16 corner of the North and South 1/4 line; said corner being N00°11'12"W 1318.53 feet from the S1/4 corner of said Section; thence S89°58'55"W along the South 1/8 line 330.00 feet; thence N00°11'12"W parallel to the North and South 1/4 line 1006.27 feet; thence N89°13'13"E 330.00 feet to the North and South 1/4 line; thence S00°11'12"E along the North and South 1/4 line 1010.66 feet to the point of beginning.

This property may be located within the vicinity of farmland or farm operations. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make zero divisions under Section 108 of the Land Division Act, Act 288 of Public Acts of 1967.

Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

B

NEWAYGO COUNTY
REGISTER OF DEEDS
L. J. CROWN

'99 AUG 10 PM 4 35

Jeffrey Sotelo

QUIT-CLAIM DEED—Short—893 — (Rev. 1967)
(Photo Copy Form) For Sheriff, Inc., Flint, Michigan SPACE ABOVE FOR REAL ESTATE TRANSFER STAMP

THIS INDENTURE, made August 10 1999
BETWEEN Jeffrey Sotelo and wife, Susan Sotelo,
12415 Peach, Grant, MI 49327,
party of the first part,
AND
Phyllis A. Vander Wall Trust UTA dated 3/26/97
3735 East 16th, Grant, MI 49327,
party of the second part,
Witnesseth, That the said party of the first part, for and in consideration of \$1.00

to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, does by these presents grant, bargain, sell, remise, release and forever QUIT-CLAIM unto the said party of the second part, and to his heirs and assigns, FOREVER, all that certain piece or parcel of land situated in the Township of Grant in Newaygo County, and State of Michigan, and described as follows:

SEE ATTACHED LEGAL DESCRIPTION

EXEMPT UNDER 7.456 (5)(a) and (26)(a)

62-23.24-300-016 PTKM

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: To Have and to Hold the said premises to the said party of the second part, and to his heirs and assigns, to the sole and only proper use, benefit and behoof of the said party of the second part, his heirs and assigns, FOREVER.

(When applicable, pronouns and relative words shall be read as plural, feminine or neuter, respectively.)

In Witness Whereof, The said party of the first part has hereunto set his hand the day and year first above written.

Signed, Sealed and Delivered in Presence of

Jeffrey Sotelo
Jeffrey Sotelo

Susan Sotelo
Susan Sotelo

Charles M. McKelvey
Charles M. McKelvey

Alexander D. McKinley
Alexander D. McKinley

STATE OF MICHIGAN.

COUNTY OF Newaygo

On August 10 1999

Jeffrey Sotelo and wife, Susan Sotelo

to me known to be the same person as described in and who executed the within instrument, who acknowledged the same to be their free act and deed.

Herbert J. Ranta
1052 Bridge NW
Grand Rapids, MI 49504

Alexander D. McKinley
Alexander D. McKinley
My commission expires March 27, 2001

SEE FOOTNOTES ON OTHER SIDE

LEGAL DESCRIPTION-SOTELO

THE NORTH 144 FEET OF THE SOUTH 720 FEET OF THE FOLLOWING DESCRIPTION: PART of the East 1/4 of the North 1/2 of the SW 1/4 of S24, T11N, R12W, Grant Township, Newaygo County, Michigan described as beginning at the South 1/16 corner of the North and South 1/4 line; said corner being N00 11'12"W 1318.53 feet from the S1/4 corner of said Section; thence S89 58'55"W along the South 1/8 line 330.00 feet; thence N00 11'12"W parallel to the North and South 1/4 line 1006.27 feet; thence N89 13'13"E 330.00 feet to the North and South 1/4 line; thence S00 11'12"E along the North and South 1/4 line 1010.66 feet to the point of beginning.

This property may be located within the vicinity of farmland or farm operations. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make zero divisions under Section 108 of the Land Division Act, Act 288 of Public Acts of 1967.

Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

33 AUG 10 PM 4 36

*Jeffrey Sotelo*QUIT-CLAIM DEED—SHORT—893 — (Rev. 1967)
(Photo Copy Form) THE SINGLE PAGE, INC., ELGIN, ILLINOIS SPACE ABOVE FOR REAL ESTATE TRANSFER STAMP

THIS INDENTURE, made AUGUST 10 1999
 BETWEEN Jeffrey Sotelo and wife, Susan Sotelo,
 12415 Peach, Grant, MI 49327,
 party of the first part,
 whose ~~address~~ AND
 Walter J. Vander Wall Trust UTA dated _____,
 3735 East 16th, Grant, MI 49327,
 party of the second part,
 whose ~~address~~
 It is Witnesseth, That the said party of the first part, for and in consideration of \$1.00

to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, does by these presents grant,
 bargain, sell, remise, release and forever QUIT-CLAIM unto the said party of the second part, and to his heirs and assigns, FOREVER, all that
 certain piece or parcel of land situated in the Township of
 Grant in Newaygo County, and State of Michigan, and described as follows:

SEE ATTACHED LEGAL DESCRIPTION

EXEMPT UNDER MSA 7.456 (5)(a) and (26)(a)

62.23.24.30.016 PT km

together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: To Have and to Hold the
 said premises to the said party of the second part, and to his heirs and assigns, to the sole and only proper use, benefit and behoof of the said
 party of the second part, his heirs and assigns, FOREVER.

(When applicable, pronouns and relative words shall be read as plural, feminine or neuter, respectively.)

In Witness Whereof, The said party of the first part has hereunto set his hand the day and year first above written.

Signed, Sealed and Delivered in Presence of

Chas. M. McKelvey
 CHAS. M. MCKELVEY
Alexander McKelvey
 ALEXANDER MCKELVEY

Jeffrey Sotelo
 Jeffrey Sotelo
Susan Sotelo
 Susan Sotelo

STATE OF MICHIGAN. } SS.

COUNTY OF Newaygo
AUGUST 10 1999

before me, a Notary Public, in and for said County, personally appeared

Jeffrey Sotelo and wife, Susan Sotelo
 me known to be the same persons described in and who executed the within instrument, who
 acknowledged the same to be their free act and deed.

Herbert J. Ranta
 1052 Bridge NW
 Grand Rapids, MI 49504

Alexander McKelvey
 ALEXANDER MCKELVEY Notary Public,
 County, Michigan.
 My commission expires March 27, 2003

LEGAL DESCRIPTION-SOTELO

THE NORTH 144 FEET OF THE SOUTH 864 FEET OF THE FOLLOWING DESCRIPTION: PART of the East 1/4 of the North 1/2 of the SW 1/4 of S24, T11N, R12W, Grant Township, Newaygo County, Michigan described as beginning at the South 1/16 corner of the North and South 1/4 line; said corner being N00 11'12"W 1318.53 feet from the S1/4 corner of said Section; thence S89 58'55"W along the South 1/8 line 330.00 feet; thence N00 11'12"W parallel to the North and South 1/4 line 1006.27 feet; thence N89 13'13"E 330.00 feet to the North and South 1/4 line; thence S00 11'12"E along the North and South 1/4 line 1010.66 feet to the point of beginning.

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Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

NOTARY
PUBLIC
MICHIGAN

'99 AUG 10 PM 4 36

Linda M. Brown

QUIT-CLAIM DEED—SHORT—883 — (Rev. 1967)
(PHOTO COPY FORM) THE SINGLE PAGE, INC., FLINT, MICHIGAN SPACE ABOVE FOR REAL ESTATE TRANSFER STAMP

THIS INDENTURE, made August 10 19 99
BETWEEN Jeffrey Sotelo and wife, Susan Sotelo,
12415 Peach, Grant, MI 49327,
party of the first part,
AND
Susan Sotelo,
12415 Peach,
Grant, MI 49327,
party of the second part,
who, ~~XXXXXX~~
Witnesseth, That the said party of the first part, for and in consideration of \$1.00

to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, does by these presents grant, bargain, sell, remise, release and forever QUIT-CLAIM unto the said party of the second part, and to his heirs and assigns, FOREVER, all that certain piece or parcel of land situated in the Township of Grant in Newaygo County, and State of Michigan, and described as follows:

SEE ATTACHED LEGAL DESCRIPTION

EXEMPT UNDER MSA 7.456 (5)(a) and (26)(a)

62-23-24-300-016PTKm

together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: To Have and to Hold the said premises to the said party of the second part, and to his heirs and assigns, to the sole and only proper use, benefit and behoof of the said party of the second part, his heirs and assigns, FOREVER.

When applicable, pronouns and relative words shall be read as plural, feminine or neuter, respectively.)

In Witness Whereof, The said party of the first part has hereunto set his hand the day and year first above written.

Signed, Sealed and Delivered in Presence of

Charles M. McKieley
CHARLES M. MCKIELEY
Alexander J. McKieley
ALEXANDER J. MCKIELEY

Jeffrey Sotelo
Jeffrey Sotelo
Susan Sotelo
Susan Sotelo

STATE OF MICHIGAN. } ss.

COUNTY OF Newaygo
August 10 1999

, before me, a Notary Public, in and for said County, personally appeared

Jeffrey Sotelo and wife, Susan Sotelo
me known to be the same person s described in and who executed the within instrument, who
knowledge the same to be their free act and deed.

Alexander J. McKieley
ALEXANDER J. MCKIELEY Notary Public,
NEWAYGO County, Michigan.
My commission expires March 27, 2003

Herbert J. Ranta
1052 Bridge NW
Grand Rapids, MI 49504

LEGAL DESCRIPTION-SOTELO

ALL PROPERTY NORTH OF THE SOUTH 864 FEET OF THE FOLLOWING DESCRIPTION: PART of the East 1/4 of the North 1/2 of the SW 1/4 of S24, T11N, R12W, Grant Township, Newaygo County, Michigan described as beginning at the South 1/16 corner of the North and South 1/4 line; said corner being N00 11'12"W 1318.53 feet from the S1/4 corner of said Section; thence S89 58'55"W along the South 1/8 line 330.00 feet; thence N00 11'12"W parallel to the North and South 1/4 line 1006.27 feet; thence N89 13'13"E 330.00 feet to the North and South 1/4 line; thence S00 11'12"E along the North and South 1/4 line 1010.66 feet to the point of beginning.

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Drafter has not examined title to the property, nor warrants the appropriate divisions transferred by the Grantor to the Grantee.

Sheila Diamond
Sheila Diamond, Notary Public
Clinton County, Michigan
Acting in Ingham County, Michigan
My Commission Expires: 6/29/2004

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

5TH FLOOR SOUTH, CONSTITUTION HALL
525 WEST ALLEGAN STREET
LANSING, MICHIGAN 48913

February 26, 2004

Clerk of the Court
Michigan Supreme Court
Michigan Hall of Justice – Fourth Floor
925 W. Ottawa Street
P.O. Box 30052
Lansing, MI 48909

Dear Clerk:

RE: *Sotelo, et al v Grant Township*
Supreme Court No. 123430; Court of Appeals No. 238690

Enclosed for filing please find an original and 7 copies of Amicus Curiae's Supplemental Brief in Support of Application for Leave to Appeal and Proof of Service.

Thank you.

Sincerely yours,

James E. Riley
First Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
5th Floor South, Constitution Hall
525 West Allegan Street
Lansing, MI 48913
(517) 373-7540

JER:rsc

Enc.

c: Donald R. Visser
Clifford Bloom
Maynard Dyer, MDLEG
Doug Rhodus, MDLEG

s:open plats sotelo cl

